

NOTICE OF PUBLIC HEARING FOR ADOPTION OF NEW RULE 20.10.2 NMAC, HEMP POST-HARVEST PROCESSING

The Secretary of the New Mexico Environment Department (“NMED”) will hold a public hearing beginning at 9:00 a.m. on December 2, 2019 and continuing thereafter as necessary at the Runnels Auditorium in the Harold Runnels Building, 1190 South St. Francis Drive, Santa Fe, NM, 87505. The hearing location may change prior to the hearing date, and those interested in attending should visit NMED’s website prior to the hearing:

<https://www.env.nm.gov/public-notices/>. The purpose of the hearing is to consider the adoption of new rule 20.10.2 NMAC, Hemp Post-Harvest Processing of the Environmental Protection Regulations, which provides a regulatory framework for the emerging hemp market through a permitting process. NMED’s Environmental Health Bureau (“Bureau”) is the proponent of the proposed new rule.

On July 1, 2019 the Hemp Manufacturing Act (“Hemp Act”) NMSA 1978, Sections 76-24-1 to -10 took effect, delegating regulatory authority to NMED over the extraction, processing, transportation, and testing of post-harvest hemp and hemp-derived products. In adherence to the Hemp Act, NMED promulgated 20.10.2 NMAC- Hemp Post-Harvest Processing (“Emergency Rule”) on an emergency basis in accordance with Section 14-4-5.6 of the State Rules Act, NMSA 1978, § 14-4-1 to -11. NMED concluded that, in these circumstances, the time required to comply with and complete the procedures of the State Rules Act would cause an imminent peril to the environment, public health, safety and welfare. The Emergency Rule took effect on August 1, 2019 and will expire on January 28, 2020. Therefore, it is necessary for NMED to adopt a permanent new rule in order to protect the environment, public health, safety, and welfare.

The Hemp Act authorizes the cultivation, harvest, extraction, and processing of cannabidiol oils and products from hemp, defined as the plant *Cannabis Sativa L.* and any part of that plant, including seeds and all derivatives, with a THC concentration of not more than three-tenths percent (0.3%). The Hemp Act requires NMED to adopt rules to regulate the extraction, processing, or other manufacturing activities regarding hemp, including manufacturing intermediate hemp-derived products and hemp finished products. The proposed new rule 20.10.2 NMAC ensures public safety by providing for the regulation of hemp extraction, manufacturing, and warehouse facilities, hemp transporters, hemp product labeling, hemp laboratories, and hemp products. It requires hemp extractors and manufacturers to adhere to standards of sanitation and safe food handling practices and requires that all final hemp products are properly labeled and tested for THC concentration, residual solvents, and CBD and THC content in hemp finished product packages.

The proposed new rule creates three different types of hemp permits with associated fees for each one. An individual, business, agency, institution, or other entity engaged in the transportation, extraction, storage, or processing of hemp products in New Mexico will be required to apply for, obtain, and maintain the appropriate hemp permit(s).

The Bureau proposes the Secretary adopt the proposed new rule, 20.10.2 NMAC, Hemp Post-Harvest Processing pursuant to its authority under NMSA 1978, § 9-7A-6 and NMSA 1978, §76-24-8(C). Please note that formatting and minor technical changes to 20.10.2 NMAC, other than those proposed by NMED, may be proposed at the hearing. Additionally, the Secretary may make other changes as necessary in response to public comments and evidence presented at the hearing.

The proposed new rule 20.10.2 NMAC may be reviewed during regular business hours at the NMED Hearing Office located in the Harold Runnels Building, 1190 South St. Francis Drive, Santa Fe, NM, 87505. The full text of the proposed 20.10.2 NMAC is also available online at www.env.nm.gov/hempprogram.

All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views, and arguments, orally or in writing; to introduce exhibits; and to examine witnesses. Any person wishing to submit a non-technical written statement for the record in lieu of oral testimony must file such statement prior to the close of the hearing.

Pursuant to 20.1.9.13 NMAC, those wishing to present technical testimony must file a written notice of intent to present technical testimony with the Hearing Office on or before 5:00 p.m. on November 15, 2019. Notices of intent to present technical testimony should reference the name of the regulation, the date of the hearing, and the docket number NMED 19-41 (R).

The form and content of the notice shall:

- * Identify the person for whom the witness(es) will testify;
- * Identify each technical witness the person intends to present and state the qualification of that witness, including a description of their education and work background;
- * Include a copy of the direct testimony of each technical witness in narrative form;
- * Include the text of any recommended modifications to the proposed regulatory change; and
- * List and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules.

Notices of intent to present technical testimony shall be submitted to:

Cody Barnes, Hearing Office Administrator
New Mexico Environment Department
Harold Runnels Building
P.O. Box 5469
Santa Fe, NM 87502
telephone: (505) 827-2428
email: cody.barnes@state.nm.us

Those wishing to do so may offer non-technical public comment at the hearing or submit a non-technical written statement in lieu of oral testimony at or before the hearing. Written comments regarding the proposed new rule may be addressed to Mr. Cody Barnes, Hearing Office Administrator, at the above address, and should reference docket number NMED 19-41 (R). Pursuant to 20.1.9.14 NMAC, any member of the public may file an entry of appearance as a party at the hearing. The entry of appearance shall be filed with Cody Barnes, at the above address, no later than 5:00 p.m. on November 15, 2019.

The Hearing Officer will allow for public comment at various points during the hearing. There will be a section dedicated to public comment on December 2, 2019 beginning at 6:00 p.m.

The hearing will be conducted in accordance with NMED's Rulemaking Procedures (20.1.9 NMAC); the Department of Environment Act, NMSA 1978, § 9-7A-6; the State Rules Act, NMSA 1978, § 14-4-5.3; and other applicable procedures. Written comments regarding the proposed regulations may be addressed to Cody Barnes, Hearing Clerk, at the above address, referencing docket number NMED 19-41 (R).

STATEMENT OF NON-DISCRIMINATION

If any person requires assistance, an interpreter or auxiliary aid to access documents, please contact 505.222.9515 (Relay users please access the number via the New Mexico Relay Network) or hemp.program@state.nm.us.

NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Part 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact: Kristine Pintado, Non-Discrimination Coordinator, New Mexico Environment Department, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855, nd.coordinator@state.nm.us. If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination

Coordinator identified above or visit our website at <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> to learn how and where to file a complaint of discrimination.